

Exhibit C

**TO PLAINTIFFS' SECOND AMENDED
MASTER COMPLAINT
(PERSONAL INJURY)**

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**IN THE THIRD JUDICIAL DISTRICT COURT
COUNTY OF SALT LAKE, STATE OF UTAH**

DIVISION OF CONSUMER PROTECTION OF THE STATE OF UTAH, <i>Plaintiff,</i> v. TIKTOK INC., <i>Defendant.</i>	COMPLAINT AND JURY DEMAND Case No.: 230907634 Judge: Honorable Charles A. Stormont Tier III
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**COMPLAINT FOR VIOLATIONS OF THE
CONSUMER SALES PRACTICES ACT**

The Division of Consumer Protection (“Division”), acting through the Attorney General of Utah, Sean D. Reyes, brings this action against Defendant TikTok Inc. (“TikTok”) to stop the harms it causes to Utah’s children through its ongoing violations of the Utah Consumer Sales

Practices Act (“UCSPA”), Utah Code §§ 13-11-1 through -24. In support of the Division’s action, it states as follows:

INTRODUCTION

1. Defendant TikTok Inc. is the owner of an app that has become synonymous with youth culture. It is incredibly popular among Utah’s children and teens, many of whom spend hours a day swiping through TikTok videos. What these children (and their parents) do not know is that TikTok is lying to them about the safety of its app and exploiting them into checking and watching the app compulsively, no matter the terrible effects it has on their mental health, their physical development, their family, and their social life.

2. The TikTok app allows its users to share and view millions of personalized “short-form” videos—that is, videos less than one minute long. By leveraging highly powerful algorithms and manipulative design features—many of which mimic features of slot machines—TikTok is currently succeeding at capturing the attention of young consumers worldwide, twenty-four hours a day. The result (and intent) of these manipulative tactics is that young consumers become hooked, unable to escape using the app.

3. TikTok claims that its “mission is to inspire creativity and bring joy.” Nothing could be further from the truth. Instead, TikTok intentionally designed and deployed an addictive product to bring itself financial gain by monetizing the attention of young users. This business practice has quickly made TikTok into one of the world’s largest social media companies. TikTok charges premium rates to advertisers, who flock to the company to place advertisements under the eyeballs of its 1.6 billion engaged users. The more time it can extract from users, the

more money TikTok makes—so it works to increase that time at the cost of its users’ mental health.

4. Children are especially vulnerable target consumers for TikTok. With young users, TikTok can more easily exploit the not-yet-fully-developed brain’s reward system to create habitual dependence on the app. By combining big data and social network pressures with addictive design tactics, TikTok targets young consumers’ particular susceptibility to dopamine manipulation to maximize engagement, including through features such as infinite scroll, push notifications, quantifying and displaying popularity (*e.g.*, likes and comments), and algorithms that leverage user data to serve highly personalized content recommendations.

5. And while it is highly lucrative for TikTok, this excessive use is incredibly harmful to young users. Today, youths aged thirteen to seventeen report using social media at a near-universal rate, with as many as 30% characterizing their own usage of social media as excessive.¹ TikTok’s own data shows that compulsive usage on the app is rampant: thirteen- to seventeen-year-olds check the app nearly seventeen times a day and spend, on average, almost two hours a day on the TikTok app, outpacing all other older age groups. Many children are spending four or more hours on the app daily. TikTok is also aware that more than 20% of children are active on its app late at night (between 12:00 a.m. and 5:00 a.m.), when they should be sleeping. The U.S. Surgeon General recently warned that this unchecked use of applications

¹ Emily A. Vogels, et al., *Teens, Social Media and Technology 2022*, PEW RSCH. CTR. (Aug. 10, 2022), <https://www.pewresearch.org/internet/2022/08/10/teens-social-media-and-technology-2022/>.

like TikTok has “a profound risk of harm to the mental health and well-being of children and adolescents.”²

6. TikTok’s conduct is especially concerning for Utah, which has the largest percentage of children per capita in the nation: 27.6% of Utahns are eighteen or younger.³ As TikTok’s popularity has skyrocketed in recent years in the State, Utah has unsurprisingly witnessed a worsening of mental health trends among adolescents. In 2023, over three quarters (76.7%) of Utah’s middle- and high-school-aged children reported symptoms of depression and 32.3% of students reported episodes of psychological distress such as persistently feeling sad or hopeless.⁴ In 2023, 17.6% of all students reported seriously considering attempting suicide and 19.8% of students reported instances of purposeful self-harm, including cutting or burning themselves.⁵

7. TikTok’s deceptive conduct violates Utah’s consumer protection laws in several ways:

- a. First, deploying, continually refining, and marketing an addictive product with design features intended to manipulate children, and that TikTok knows harms children, including in Utah, is an unconscionable business practice.
- b. Second, TikTok also misrepresents that its app is safe for use, when it knows it is not. In particular, TikTok deceptively misrepresents that it works to support the well-being of everyone on the app and addresses issues with its algorithm known to hurt user well-being, and deceptively misrepresents that it

² U.S. DEP’T OF HEALTH & HUM. SVCS., *Social Media and Youth Mental Health: The U.S. Surgeon General’s Advisory* 4 (2023), <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>.

³ U.S. CENSUS BUREAU, Quick Facts: Utah, <https://www.census.gov/quickfacts/fact/table/UT/PST045222> (last visited Oct. 8, 2023).

⁴ UTAH DEP’T OF HUMAN SVCS. DIV. OF SUBSTANCE ABUSE AND MENTAL HEALTH, *2023 Student Health and Risk Prevention: Prevention Needs and Risk Assessment* 26 (2023) https://dsamh-training.utah.gov/_documents/SHARPreports/2023/StateOfUtahProfileReport.pdf.

⁵ *Id.* at 27.

can effectively maintain a safe digital environment for children. None of this is true.

- c. Finally, to avoid scrutiny from its users (and regulators), TikTok has also misled Utah consumers about the degree to which TikTok remains enmeshed with and under the control of ByteDance, its China-based parent company.

8. The Division brings this action to protect Utah's children and other consumers by putting an end to TikTok's unlawful conduct in the State.

PARTIES

9. Plaintiff the Division of Consumer Protection is the authorized enforcer of the UCSPA and is authorized to conduct investigations into violations of the UCSPA and bring actions to enforce the same. The Division of Consumer Protection is one of nine divisions within the Utah Department of Commerce. Here it is represented by Utah's chief legal officer, Attorney General Sean D. Reyes.

10. Defendant TikTok Inc. is incorporated in California with its principal place of business located at 5800 Bristol Parkway, Culver City, Los Angeles, California 90230. TikTok transacts or has transacted business in the State of Utah, including entering into contracts with Utah consumers. TikTok is wholly owned by its parent company ByteDance, a China-based corporation. At all times material to this Complaint, TikTok has advertised, marketed, and distributed the TikTok social media app to consumers in Utah.

JURISDICTION AND VENUE

11. This Court has subject-matter jurisdiction over this case under Utah Code §§ 13-2-6(4) and 78A-5-102(1) because TikTok transacts business within, and the UCSPA violations occurred in connection to, the State of Utah.

12. Venue is appropriate in this Court under Utah Code § 78B-3-307(3).

13. This Court has personal jurisdiction over TikTok under Utah Code § 78B-3-205(1), (2) and (3) because TikTok has transacted business in Utah, contracts to supply goods or services in the State, and has injured Utah’s consumers and citizens.

TIKTOK’S CONTACTS WITH THE STATE OF UTAH

14. TikTok has significant contacts with the State of Utah, examples of which include the following.

15. First, TikTok has entered (and continues to enter) into contracts with hundreds of thousands of Utahns to provide them social media services in the State.⁶ These are not free services: TikTok charges its Utah consumers by taking their time and data, including users’ locations, interests, and behaviors (such as video views, likes, comments, and shares), which the company then converts into advertising dollars.

16. Second, TikTok sells significant advertising space to marketers and allows them to tailor messages and offers to specific locations throughout the State of Utah.⁷ TikTok’s own marketing materials even boast that locations in Utah—like our capital, Salt Lake City—are prime locations for advertisers to target.⁸ *See* Figure 1, showing a screenshot from TikTok’s Business Help Center.⁹ While TikTok has refused to produce its exact advertising revenue in response to pre-suit subpoenas issued by the Division, on information and belief, TikTok makes millions of dollars annually by sending targeted advertisements to its Utah consumers.

⁶ TIKTOK, Terms of Service, <https://www.tiktok.com/legal/page/us/terms-of-service/en> (last updated July 2023).

⁷ TIKTOK, Location Targeting, <https://ads.tiktok.com/help/article/location-targeting?lang=en> (last visited Oct. 8, 2023).

⁸ *Id.*

⁹ *Id.*

Location Targeting Options	
Location Type	Example
City	Salt Lake City, Utah
Country / Region	United States

(Figure 1.)¹⁰

17. Third, Utah is also a hub for “influencers”—people who have many followers on the app and make popular videos watched by millions of TikTok users, including Utah residents like Taylor Frankie Paul, a “mommy blogger.” Influencers like Taylor Frankie Paul that create and post content on the app are often compensated directly by TikTok (out of TikTok’s “Creator Fund”¹¹) to encourage them to continue engaging with their user base on the platform. The money accrues in a “Creator Fund Dashboard” on the user’s TikTok account and can be withdrawn to turn into actual U.S. currency.¹² For users who make money from the Creator Fund, TikTok skims the pot on both ends of the transaction—first taking a portion of what the payor deposits into its platform, which is used to pay creators through the Creator Fund, and then taking another portion from the payee when they withdraw their funds from the platform.

18. Finally, TikTok has also intentionally built relationships within Utah, including lobbying the Utah state government, and asking the National Parent Teacher Association to prioritize awarding grant funds in Utah, which led to it funding several Utah elementary schools.

¹⁰ *Id.*

¹¹ TIKTOK, Creator Fund, <https://www.tiktok.com/creators/creator-portal/en-us/getting-paid-to-create/creator-fund/> (last visited Oct. 8, 2023).

¹² *Id.*

FACTUAL ALLEGATIONS

I. An overview of TikTok.

19. The TikTok app is a leading social media app that was launched in September 2017 by a Chinese tech company named ByteDance, where users can create and consume fifteen- to sixty-second-long, short-form videos (hence the name TikTok, like a ticking clock), which users view in the app and “swipe” to view the next video.

20. The TikTok app was initially introduced in China under the name “Douyin” (pronounced “doe-yin”) in 2016 and was later launched internationally as TikTok in 2017. The app gained significant popularity in the United States after merging with a popular lip-synching app called Musical.ly in August 2018.

21. The app is now available in over 150 markets, and in seventy-five languages, boasting over 1.6 billion active users worldwide. In the U.S., TikTok has over 150 million users, making up nearly half the country’s population. TikTok is incredibly lucrative. In 2022, the company made nearly \$10 billion in ad revenue, a 155% increase from the prior year.

22. TikTok credits its explosive growth, in large part, to what executives call its “golden audience” of U.S. teenagers.¹³

23. TikTok’s focus on children as a target audience has been controversial from the start. For instance, in 2019, the Federal Trade Commission (“FTC”) filed a complaint against Musical.ly (now TikTok) for illegally collecting the personal information of children despite

¹³ Paul Mozur, *Chinese Tech Firms Forced to Choose Market: Home or Everywhere Else*, N.Y. TIMES (Aug. 9, 2016), <https://www.nytimes.com/2016/08/10/technology/china-homegrown-internet-companies-rest-of-the-world.html>.

being aware that a significant percentage of its users were under thirteen.¹⁴ Musical.ly later agreed to settle the alleged violations of the Children’s Online Privacy Protection Act (“COPPA”) for nearly \$6 million.¹⁵ In 2022, the Information Commissioner’s Office (“ICO”) in the United Kingdom announced that it had concluded its investigation into underage children’s use of TikTok. The ICO found that over a million children had engaged with TikTok without parental consent. The breach resulted in a nearly £13 million penalty.¹⁶

24. None of these enforcement actions deterred TikTok from continuing to violate Utah’s laws to maintain its dominance as one of the most popular social media apps among young users.

25. More recently, on September 15, 2023, Ireland’s Data Protection Commission (“DPC”) fined TikTok \$368 million for violating European privacy laws relating to how the company processed children’s personal data.¹⁷ According to the DPC, TikTok had, among other things, automatically set child-user accounts to public (meaning anyone could view content posted by child users) and employed “dark patterns” by nudging users towards choosing more privacy-intrusive options during the registration process. The DPC further found that the “Family Pairing” setting, which TikTok introduced to give parents more control over a child’s account, did not verify whether a user was actually the child-user’s parent or guardian.

¹⁴ *United States v. Musical.ly*, No. 2:19-cv-1439, Dkt. 1 (C.D. Cal. 2019).

¹⁵ *Musical.ly*, No. 2:19-cv-1439, Dkt. 10.

¹⁶ Press Release, INFO. CONSUMERS OFF., *ICO Fines TikTok £12.7 million for Misusing Children’s Data* (Apr. 4, 2023), <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2023/04/ico-fines-TikTok-127-million-for-misusing-children-s-data>.

¹⁷ Press Release, IRISH DATA PROTECTION COMM’N, *Irish Data Protection Commission announces €345 million fine of TikTok* (Sep. 15, 2023), <https://www.dataprotection.ie/en/news-media/press-releases/DPC-announces-345-million-euro-fine-of-TikTok>.

II. TikTok designed its products to keep young users spending unhealthy amounts of time on its app, with devastating effect.

26. TikTok’s primary business is selling access to its users’ attention. TikTok extracts value from users by collecting their data and monopolizing their time, which TikTok converts into advertising dollars. The app is particularly attractive to businesses because TikTok generates scale and engagement like no other platform can deliver and a powerful audience response that helps businesses increase brand awareness and, ultimately, consumer purchases. Young users are particularly integral to TikTok’s business model. A report commissioned by TikTok to assess the value of its app for businesses found that TikTok is “undeniably powerful at reaching younger audiences.”¹⁸ Internal documents reveal that TikTok’s success among U.S. users under the age of eighteen has been incredibly successful—reaching a market penetration of 95%.

27. To maximize engagement, TikTok uses a dopamine-inducing algorithm that spoon-feeds users a steady diet of highly personalized short-form videos, making it difficult for children to unplug, which TikTok amplifies with a series of manipulative features designed to keep users on the app. Unfortunately, the result is that TikTok’s youngest, most vulnerable users become trapped, spending excessive, unhealthy amounts of time on the app, which TikTok knows is contributing to a mental health crisis among teens in Utah.

A. TikTok’s “For You” feed is run by a highly powerful personalization algorithm amplified by coercive design elements.

28. Every TikTok user’s journey begins on the “For You” feed, the app’s flagship feature. On this feed, users can view an endless stream of content that is algorithmically curated

¹⁸ *The Power of TikTok: Achieving breakthrough brand building with TikTok*, KANTAR | TIKTOK, <https://www.tiktok.com/business/library/the-power-of-tiktok.pdf> (last visited Oct. 8, 2023).

to appeal to each individual user. “For You” is fueled by TikTok’s Recommendation Engine and uses what is called “infinite scroll,” meaning that the feed continues to load new videos as the user “scrolls down.” TikTok’s Recommendation Engine is an immensely powerful set of algorithms that collects and weaponizes each user’s personal data and provides them with highly personalized videos to keep them scrolling endlessly.

29. TikTok sends newly posted videos through its Recommendation Engine, along with information about the user and their actions on the app, which include, for instance, videos a user previously watched, liked, or commented on. The Engine calculates a score to predict how a user will respond to each video. Using those calculations, the Engine narrows results down from millions of videos to just eight, called a “load.” After each load, the Engine gives TikTok’s algorithm feedback about the accuracy of its predictions, which it “learns” from as it continues to recommend more videos in an endless cycle—thus curating a highly personalized, infinite experience for each user.

30. The Recommendation Engine’s predictions are made by a series of machine-learning algorithms, which rely on advanced math to create software that “learns.” After the algorithms are created, they are each fed “training data”—here, information about videos and how people react to them. The algorithm makes connections between certain characteristics and can apply them to new information it receives about videos and users. By finding videos a user is most likely to watch to the end, like, or comment on, the Engine keeps them hooked on the app for as long as possible and keeps them coming back for more.

31. TikTok knows that the Recommendation Engine is incredibly effective at predicting how likely a user is to keep engaging with the app. This is a carefully designed

machine with a clear end goal: to trap a user's attention and minimize their agency to control their own app experience. Indeed, TikTok does not shy away from admitting that habit formation is a core "mission" of the company:

Pulling in and retaining new-users is difficult because it is causing these users to make behavioral changes to their current habits. The Habit Loop (neurological loop that governs habits) is broken down into 3 stages; the Cue; the Routine, the Reward. Prior to downloading TikTok, new-users already established "Routines" for cues (ex[ample] boredom, free-time, bed-time routine) that we may want as cue to bring people onto TikTok. However, changing someone's routine is not as simple as asking them to. It's about the reward; the positive reinforcement and benefit that the person feels from doing that routine. **TikTok[']s mission to increase retention is to discover what "rewards" our users are seeking during the cues we want to associate ourselves with.**

(emphasis added)

32. The algorithm is therefore designed to give young users immediate gratification and boost rewards to encourage excessive, "routine use" of the app. TikTok knows that its presence in people's lives monopolizes their time resulting in precisely this effect. *See* Figures 2 and 3 below, showing images from an internal PowerPoint titled "TikTok Strategy: 2021 Positioning."



(Figure 2.)



(Figure 3.)

33. TikTok induces that effect by relying on the same strategy that casinos use to hook gamblers on slot machines—keeping them at the machine, spending a quarter at a time, hoping that each pull will be “the one.” This variable reward schedule—also known as the *slot machine effect*—provides users with “rewards” at unpredictable times, which makes each pull exciting and satisfying due to the anticipation of a possible reward. The human brain is wired to seek out patterns and predictability, so when rewards come randomly the brain releases dopamine, a chemical that creates feelings of intense pleasure.

34. The TikTok app functions in much the same way. Like a slot machine, users “swipe down” on the app to load more videos continuously, each new video requiring only a small investment of their time, and the user is excited for each new video by the possibility that it might be incredibly rewarding. This pattern keeps users engaged, constantly anticipating that dopamine rush.

35. The Recommendation Engine uses this tool to dangerous effect. Users who are drawn in by the variable reward schedule can end up trapped by the Recommendation Engine in “filter bubbles,” or rabbit holes of dangerously similar content. These filter bubbles learn and then reinforce users’ video preferences by recommending more *intense* versions of those videos,

and isolating the user from other types of videos that might disrupt the feedback loop. When a user is in a filter bubble, TikTok strings related—and increasingly extreme—videos together in an endless reel, which TikTok admits “can expose vulnerable users to increasingly deviant content or inadvertently encourage on-app community connections that may reinforce violating behavior.”

36. A small slide towards the subject matter can keep users stuck in a bubble for long periods of time, if not indefinitely. These bubbles keep children virtually surrounded by harmful content, including content about weight loss, dieting, self-harm, and worse, sending them spiraling down “endless streams of depressing and suicide-glorifying videos.”¹⁹

37. In addition to its powerful algorithms, TikTok helps condition children into forming a habitual dependence on the app through manipulative design features. TikTok acknowledges it “utilizes many coercive design tactics that detract from user agency such as infinite scroll, constant notifications, and the ‘slot machine’ effect.” These and other features give children the illusion of control, hide any effective tools to limit time spent on the app, and further amplify and incentivize compulsive, repeated use, which is especially unhealthy for kids whose brains are not yet fully formed.

38. One of TikTok’s coercive design tactics, “infinite scroll,” is particularly pernicious. Because the “For You” feed constantly loads new videos for users, it never ends: users can endlessly scroll through the app and see content at *any* time, at *any* location, and for

¹⁹ Olivia Carville, *TikTok’s Algorithm Keeps Pushing Suicide to Vulnerable Kids*, BLOOMBERG (Apr. 19, 2023), <https://www.bloomberg.com/news/features/2023-04-20/tiktok-effects-on-mental-health-in-focus-after-teen-suicide>.

any amount of hours. As a user scrolls down their feed, new content is automatically loaded to the app, which is constantly fed by millions of videos posted on the app daily.

39. The “infinite scroll” format makes it difficult for young users to disengage from the platform, especially because “For You” is designed with no natural endpoint, and content is not in chronological order or limited to people followed by the user. The infinite format is designed to detract from a user’s agency and maximize time spent in the app. According to TikTok, the “longer users engage with TikTok, the more they like it.”

40. Another example of these manipulative elements is “push notifications,” which alert users of new messages or video suggestions to induce them to re-open the app. Push notifications are important for apps like TikTok because they help “recall” users back to the app. These notifications are persistent, often *highly* personalized, and sent to young users multiple times every day. TikTok sends these notifications directly to users’ mobile phones, nudging younger users to engage with the app during both school and sleeping hours: “[W]e send notifications to users during the school day and in some cases, up until midnight, which could interfere with sleep.”

41. The app is jam-packed with slot-machine-like variable rewards, including in the form of money and social capital. For example, TikTok allows users to “gift” content creators on TikTok with actual money. Users must first purchase “coins,” which then allows users to send gifts to content creators on the app. According to TikTok, this “gifting” feature “introduces a variable reward (which is effective in driving sustained changes in user behavior) for creators when their content goes viral.” For content creators, these rewards can also come in the form of views, likes, and comments on their videos.

42. Younger users describe their lives as a constant struggle to outrun the machine. In fact, TikTok knows that many of its young users are active on the app during late-night hours which TikTok admits is a “strong indicator” that those users are not getting the recommended eight hours of sleep for their health and well-being. Specifically, 19% of TikTok’s thirteen- to fifteen-year-old users globally and a quarter (25%) of users aged sixteen to seventeen are active on TikTok between midnight and 5:00 a.m.

43. Even when the company introduced a screen-time management tool, it buried it behind a “hidden series of menus” so users would not use it.

44. TikTok is well aware that its app is designed to maximize the company’s success while trading-off its user’s well-being and ability to stop using the platform, admitting internally that: “TikTok’s success can largely be attributed to strong out of the box personalization and automation, which limits user agency.” This has had particularly devastating and harmful results for TikTok’s young users.

B. TikTok knows children’s prolonged and compulsive use of its app poses a profound risk of harm to the mental health and well-being of Utah’s children.

45. The very thing that makes children an appealing target for TikTok also makes them more vulnerable to overuse and its harms. Adolescence is a period of transition from childhood to adulthood, marked by specific developmental and behavioral changes that are critical to improving the outcomes of children in their adult lives.

46. The brain goes through major alterations during adolescence, including both structural remodeling and neurochemical maturation. Brain regions associated with a desire for

risk-taking,²⁰ attention, peer feedback, and reinforcement become particularly sensitive in adolescence, while the regions associated with maturity and impulse control are not fully developed until adulthood.

47. These changes contribute critically to developing executive functioning, motivated behaviors, emotional regulation, impulse control, and associative learning. One area of peak activity is the dopamine system, which is involved in the neural coding of reward and motivated behavior—the precise area that reward schedules (like those used by TikTok) stimulate. The prefrontal cortex, on the other hand, does not fully develop until adulthood. This means that adolescents are highly susceptible to risky behaviors and temptations that can prove damaging to their development.

48. At the same time, adolescent well-being is also at its most vulnerable. Because identities and sense of self are not yet fully formed, teens are more susceptible than adults to the danger, misinformation, peer pressure, and false images that abound on social media.

49. Given all this, TikTok has unsurprisingly proven to be especially popular among U.S. children, who average nearly two hours a day on the app, and with many spending more than four hours a day on TikTok's app alone. Of the nearly seventy million minors (aged thirteen to seventeen) who use the app daily, almost thirty million of them are spending close to two or more hours on the app every day and seventeen million are averaging nearly three or more hours. To put that into perspective, almost a quarter of all children using the TikTok app are spending the equivalent of half of their school day on the app every day. In 2023, nearly 80% (79.8%) of

²⁰ U.S. DEP'T OF HEALTH & HUM. SVCS., *Social Media and Youth Mental Health: The U.S. Surgeon General's Advisory 5* (2023) <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>.

Utah’s students report spending two or more hours a day on screens (not counting school work)—up from 66.7% in 2019.²¹

50. This compulsive, prolonged use of the TikTok app is incredibly dangerous. Studies have shown that children who spend more than three hours per day on social media face double the risk of experiencing poor mental health outcomes, including symptoms of depression and anxiety. Frequent use of the app may also result in structural changes to the brain itself, and children can emerge from this critical period of adolescent development damaged. Scientists report that younger adolescents can experience higher levels of developmental sensitivity to apps like TikTok and rate lower on the life-satisfaction scale than older adolescents. The reverse is also true—a decrease in social media use for younger adolescents is predictive of an overall increase in life satisfaction.

51. Heavy TikTok use also disrupts activities like sleep and physical activity, which are critical for psychological health and well-being. Research indicates that use of technology, especially social media, within one hour of bedtime is associated with sleep disruptions, and insufficient sleep is itself associated with disruptions to neurological development in adolescent brains. Specifically, lack of sleep can impair teenagers’ emotional functioning and heighten suicidal thoughts.

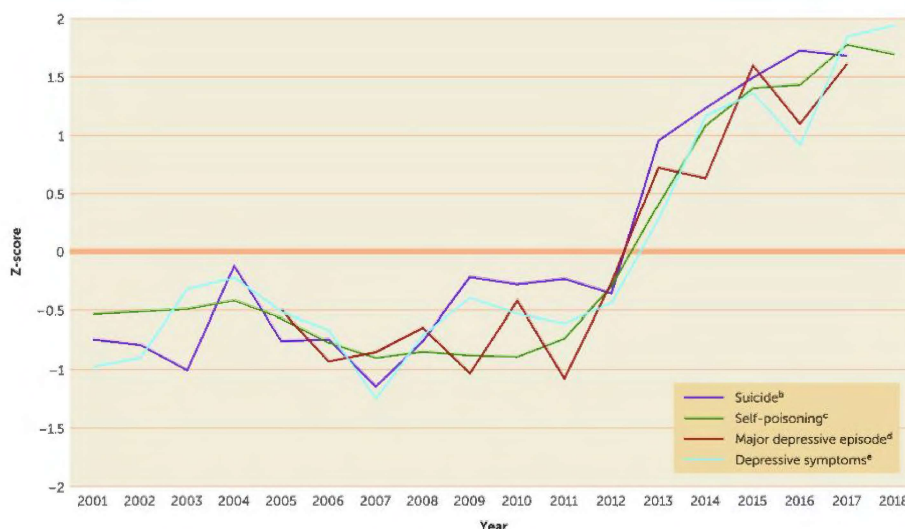
52. TikTok is fully aware of the risks its app poses for adolescents and acknowledges that children are “more easily persuaded” and “likely don’t understand risks of unhealthy usage.” Specifically, [REDACTED] has acknowledged that “13-18 yo [TikTok]

²¹ UTAH DEP’T OF HUMAN SVCS., DIV. OF SUBSTANCE ABUSE AND MENTAL HEALTH, 2023 *Student Health and Risk Prevention: Prevention Needs and Risk Assessment* 26 (2023) https://dsamh-training.utah.gov/_documents/SHARPreports/2023/StateOfUtahProfileReport.pdf.

users are severely struggling with mental health, including thoughts of suicide and self-harm.” In an internal digital well-being product safety report, TikTok has also admitted that the design of its application can trigger habit-forming behaviors that harm mental health:

An internal study indicates that 50% of inactive TikTok users cited time management as an issue, 24% reported too many notifications, and 23% reported too much time spent on TikTok . . . [C]ompulsive usage correlates with a slew of negative mental effects like loss of analytical skills, memory formation, contextual thinking, conversational depth, empathy, and increased anxiety. Various similar studies . . . also conclude that compulsive usage interferes with essential personal responsibilities like sufficient sleep, work/school responsibilities, and connecting with loved ones.

53. Unfortunately, the harms TikTok knows its app presents are by no means hypothetical. Mental health trends, especially among young girls, reached an alarming inflection point around 2012 and have only worsened since. This has been concurrent with increases in digital media use among adolescents, as shown in Figure 4 below, which shows indicators of poor mental health among U.S. girls from 2011 to 2018.



(Figure 4.)²²

²² Jean M. Twenge, *Increases in Depression, Self-Harm, and Suicide Among U.S. Adolescents After 2012 and Links to Technology Use: Possible Mechanisms*, 2:1 PSYCH. RES.

54. Young people using TikTok are in a mental health crisis. Nearly half (45%) of adolescent girls who use TikTok say they feel “addicted” to the app and use it more than intended.²³ In 2021, almost 60% of adolescent girls reported feeling “persistent feelings of sadness or hopelessness.”²⁴ Approximately one in four teenage girls reported that they had made a suicide plan in an attempt to end their lives and 40% of high school students described mental health challenges so dire that “they could not engage in their regular activities for at least two weeks during the previous year”²⁵ Nationally, the suicide rate among youth and young adults has increased 52.2% between 2000-2021, and youth and young adults are experiencing high rates of emergency department visits for self-harm.²⁶ In 2020, emergency department visits for this age group were 354.4 per 100,000, compared with 128.9 per 100,000 among middle-aged adults ages thirty-five to sixty-four.²⁷ Girls and young women are at particularly high risk, with an emergency department visit rate of 514.4 per 100,000—which has approximately

AND CLINICAL PRAC. 19, 20 (Sep. 9, 2020),

<https://prcp.psychiatryonline.org/doi/epdf/10.1176/appi.prcp.20190015>.

²³ Jacqueline Nesi, et al., *Teens and mental health: How girls really feel about social media*. San Francisco, CA: Common Sense, COMMON SENSE MEDIA, 6 (2023), https://www.commonsensemedia.org/sites/default/files/research/report/how-girls-really-feel-about-social-media-researchreport_final_1.pdf.






²⁴ CTRS. FOR DISEASE CONTROL AND PREVENTION, *Youth Behavior Risk Survey: Data Summary & Trends Report 2* (2023), https://www.cdc.gov/healthyyouth/data/yrbs/pdf/YRBS_Data-Summary-Trends_Report2023_508.pdf.

²⁵ *Id.*




²⁶ CTRS. FOR DISEASE CONTROL AND PREVENTION, *Disparities in Suicide* (May 9, 2023), <https://www.cdc.gov/suicide/facts/disparities-in-suicide.html>.

²⁷ *Id.*

doubled since 2001.²⁸ For students overall, the mental health trends are similarly alarming. *See* Figure 5, showing national youth mental health and suicidality trends from the CDC.

The Percentage of High School Students Who: [*]	2011 Total	2013 Total	2015 Total	2017 Total	2019 Total	2021 Total	Trend
Experienced persistent feelings of sadness or hopelessness	28	30	30	31	37	42	
Experienced poor mental health [†]	–	–	–	–	–	29	–
Seriously considered attempting suicide	16	17	18	17	19	22	
Made a suicide plan	13	14	15	14	16	18	
Attempted suicide	8	8	9	7	9	10	
Were injured in a suicide attempt that had to be treated by a doctor or nurse	2	3	3	2	3	3	

*For the complete wording of YRBS questions, refer to the appendix.
[†]Variable introduced in 2021.

 In wrong direction
 No change
 In right direction

(Figure 5.)²⁹

55. The mental health crisis is also heavily impacting children here in Utah, which has experienced a similar worsening of mental health in line with national trends since 2011. *See* Figures 6 and 7 below, showing aggregate data of both national and Utah rates of reported feelings of sadness and hopelessness among high schoolers between 2011-2021.³⁰

²⁸

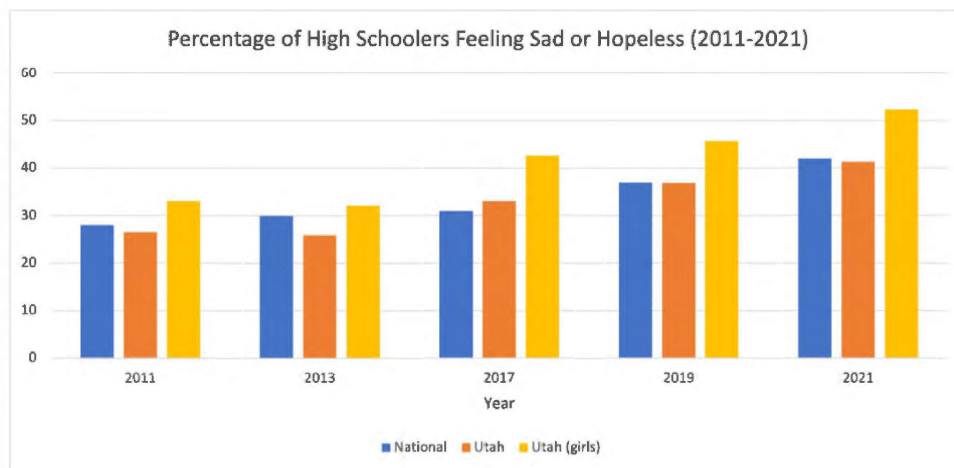
Id.

²⁹

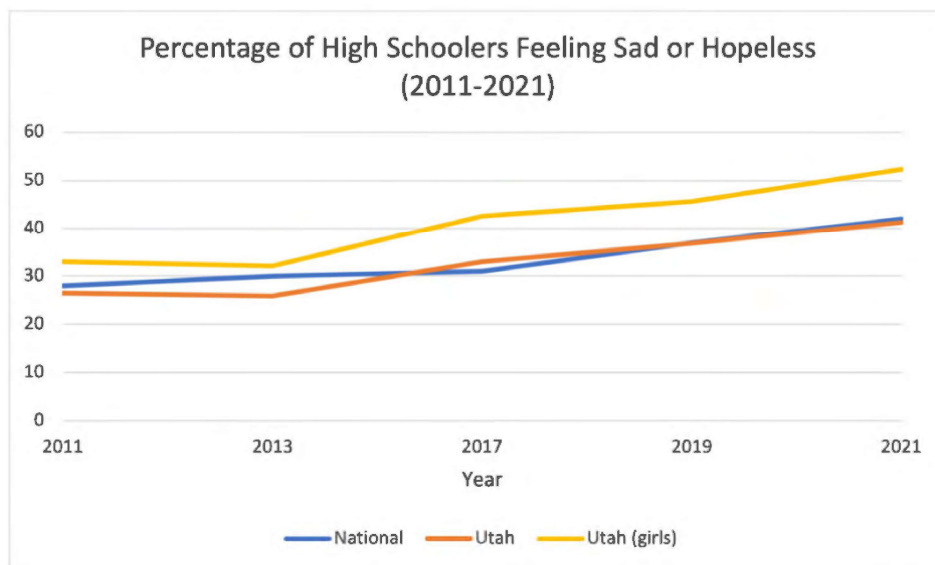
CTRS. FOR DISEASE CONTROL AND PREVENTION, *Youth Risk Behavior Survey, Data Summary & Trends Report* (2011-2021), https://www.cdc.gov/healthyyouth/data/yrbs/pdf/YRBS_Data-Summary-Trends_Report2023_508.pdf.

³⁰

Id.; *see also* UTAH DEP'T OF HEALTH AND HUMAN SVCS., *Public Health Indicator Based Information System (IBSIS)*, https://ibis.health.utah.gov/ibisph-view/indicator/complete_profile/SuicDth.html#:~:text=The%202021%20Utah%20age%2Dadjusted,females%20in%20every%20age%20group (last visited Oct. 8, 2023).



(Figure 6.)



(Figure 7.)

56. In October 2023, Utah's Department of Health and Human Services released an updated statewide assessment of the health and well-being of Utah's middle- and high-school-aged children that again confirmed a worsening of mental health. In 2023, 76.7% of all middle- and high-school-aged children reported symptoms of depression overall.³¹ In 2007, that number

³¹ UTAH DEP'T OF HUMAN SVCS., DIV. OF SUBSTANCE ABUSE AND MENTAL HEALTH, *2023 Student Health and Risk Prevention: Prevention Needs and Risk Assessment* 26 (2023) https://dsamh-training.utah.gov/_documents/SHARReports/2023/StateOfUtahProfileReport.pdf.

of students reporting depressive symptoms was closer to a third (34.7%),³² representing a 121% increase in children who felt persistently sad or hopeless. The percentage of students reporting “high” depressive symptoms is also on the rise, increasing from 6.3% in 2017 to 9.9% in 2023.³³

57. Suicidal thoughts have also risen during this period in Utah and follow similar trends nationally.³⁴ Among Utah children (ages ten to seventeen) and young adults (eighteen to twenty-four), suicide is the leading cause of death.³⁵ In 2023, 17.6% of all Utah students seriously considered attempting suicide, 19.8% reported purposeful self-harm, 13.2% made a suicide plan, and 7.3% made one or more suicide attempts.³⁶ For some of the State’s most vulnerable students in middle school, the rate of purposeful self-harm now exceeds 20%.³⁷

58. In short, TikTok has designed its application in ways it knows are harmful—especially to teens—with devastating effect.

³² UTAH DEP’T OF HUMAN SVCS., DIV. OF SUBSTANCE ABUSE AND MENTAL HEALTH, *2011 Student Health and Risk Prevention: Prevention Needs and Risk Assessment* 26 (2011) https://dsamh.utah.gov/pdf/sharp/2011/2011_State%20of%20Utah%20Profile%20Report.pdf.

³³ UTAH DEP’T OF HUMAN SVCS., DIV. OF SUBSTANCE ABUSE AND MENTAL HEALTH, *2023 Student Health and Risk Prevention: Prevention Needs and Risk Assessment* 26 (2023) https://dsamh-training.utah.gov/_documents/SHARPreports/2023/StateOfUtahProfileReport.pdf.

³⁴ UTAH DEP’T OF HEALTH AND HUMAN SVCS., *Public Health Indicator Based Information System (IBSIS)*, https://ibis.health.utah.gov/ibisph-view/indicator/complete_profile/SuicDth.html#:~:text=The%202021%20Utah%20age%2Dadjusted,females%20in%20every%20age%20group (last visited Oct. 8, 2023).

³⁵ *Id.*

³⁶ UTAH DEP’T OF HUMAN SVCS., DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH, *2023 Student Health and Risk Prevention: Prevention Needs and Risk Assessment* 26 (2023) https://dsamh-training.utah.gov/_documents/SHARPreports/2023/StateOfUtahProfileReport.pdf.

³⁷ *Id.* at 27.

III. TikTok misrepresents the safety of its app.

A. TikTok's Community Guidelines promise young users safety.

59. TikTok maintains publicly available “Community Guidelines,” which are the app’s rules and policies that govern behavior and activities on the app. The Community Guidelines also explain how TikTok enforces and moderates harmful content that violates its rules.

60. These policies assure TikTok’s young users (and their parents) that the app is designed to be a safe environment for users of all ages. Indeed, TikTok specifically represents that its policies are strict and the “guidelines apply to everyone and everything on our platform.”

61. TikTok’s policies make special assurances that the app is safe for children to use. Since it launched in the United States, TikTok has said that it “takes child safety with the utmost seriousness[.]” and it currently represents that it is “deeply committed to ensuring that TikTok is a safe and positive experience for people under the age of 18”

62. Since 2020, TikTok has expressly represented that it prohibits content that is particularly harmful to children:

- a. “We do not allow youth exploitation and abuse, including child sexual abuse material (CSAM), nudity, grooming, sextortion, solicitation, pedophilia, and physical or psychological abuse of young people.”
- b. “We do not allow content that may put young people at risk of exploitation, or psychological, physical, or developmental harm. This includes child sexual abuse material (CSAM), youth abuse, bullying, dangerous activities and challenges, exposure to overtly mature themes, and consumption of alcohol, tobacco, drugs, or regulated substances.”
- c. “We want TikTok to be a place where people can discuss emotionally complex topics in a supportive way without increasing the risk of harm. We do not allow showing, promoting, or sharing plans for suicide or self-harm.”

- d. “We want TikTok to be a place that encourages self-esteem, and does not promote negative social comparisons. We do not allow showing or promoting disordered eating or any dangerous weight loss behaviors.”
- e. “We do not allow showing or promoting dangerous activities and challenges. This includes dares, games, tricks, inappropriate use of dangerous tools, eating substances that are harmful to one’s health, or similar activities that may lead to significant physical harm.”
- f. “We do not allow showing or promoting recreational drug use, or the trade of alcohol, tobacco products, and drugs.”

63. To help ensure a “safe” and “trustworthy” in-app experience for children, TikTok expressly represents that it “remove[s] content including video, audio, image, and text that violates [its] Community Guidelines.”

B. TikTok and its CEO publicly promised to protect children.

64. Both TikTok and its CEO, Shou Chew, have misrepresented to the public the safety of the app, including by making promises to take proactive steps to protect children on the app, and specific tools to support the “well-being of everyone in [its] community.” These promised tools have included features such as “Screen Time Management” and “Restricted Mode,” as well as tools to address the exploitation of children using “human and machine-based moderation tools like photo identification technologies,” hashing, filtering “red-flag language,” and sharing information with the National Center for Missing & Exploited Children (NCMEC).³⁸ TikTok has also stated that it “address[es] the challenges of recommendation engines” and “filter

³⁸ Eric Han, *Protecting Against Exploitative Content*, TIKTOK (Mar. 5, 2020), <https://newsroom.tiktok.com/en-us/protecting-against-exploitative-content>.

bubbles”³⁹ by “[i]nterrupting repetitive patterns,” “[d]iversifying recommendations,” and “[s]afeguarding the viewing experience.”⁴⁰

65. According to TikTok: “Our recommendation system is also designed with safety as a consideration.”⁴¹

66. TikTok’s CEO Shou Chew has made similar statements, under oath, to the U.S. Congress, touting the company’s ability to moderate its app:

- a. When asked if TikTok “screens against manipulative content from child predators,” Mr. Chew responded: “Yes we do.”⁴²
- b. Mr. Chew reiterated strict prohibitions against content about eating disorders, claiming: “We remove all content that glorifies eating disorders”⁴³
- c. Mr. Chew testified that: “Dangerous challenges are not allowed in our platform. If we find them, we will remove them.”⁴⁴
- d. In discussing drug-related content, Mr. Chew stated that TikTok “take[s] illegal drug[] content on our platform very seriously. [If] it violates our guidelines, [we] proactively identify[] and remov[e] them.”⁴⁵

67. A month later in April 2023, Shou Chew again claimed that TikTok has “clear community guidelines” and executives do not “make any ad-hoc decisions” when dealing with

³⁹ TIKTOK, *How TikTok recommends videos #ForYou* (June 18, 2020), <https://newsroom.tiktok.com/en-us/how-tiktok-recommends-videos-for-you>.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Testimony Before the U.S. House Committee on Energy and Commerce, Testimony of Shou Chew*, 118th Cong. (Mar. 23, 2023), <https://www.c-span.org/video/?526609-1/tiktok-ceo-testifies-house-energy-commerce-committee-hearing>.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

“bad actors” who post offensive content on the app.⁴⁶ Mr. Chew also explicitly represented that TikTok “ha[s] built a team that is tens of thousands of people plus machines in order to identify content that is bad, and actively, proactively remove it from the platform[.]”⁴⁷

C. TikTok’s public promises and representations about its app’s safety are not true.

68. The promises that TikTok makes in its Community Guidelines and public statements (detailed above) are false and mislead and deceive the public into believing the company is taking safety measures that it either fails to adequately implement or knowingly cannot implement from a technical perspective.

69. The promises and representations TikTok made were (if performed as pledged) necessary to protect children. TikTok has long been a haven to incredibly disturbing, gruesome videos, many of which TikTok’s algorithm recommended to users—including videos featuring beheadings, mass shootings, suicide, and eating disorders,⁴⁸ and is known to have communities of sexual predators soliciting nudes and other photos from children.⁴⁹

70. It is unsurprising that TikTok has failed to uphold its promises, as internally it recognizes “the fundamental cause roots in that we haven’t formed a systematic content strategy for minors.” As described in more detail below, TikTok knows that it does not apply its

⁴⁶ Jonathan Vanian, *TikTok has tens of thousands of moderators led by group in Ireland looking for offensive content, CEO says*, CNBC (Apr. 20, 2023), <https://www.cnbc.com/2023/04/20/tiktok-has-tens-of-thousands-of-content-moderators-in-ireland-ceo.html>.

⁴⁷ *Id.*

⁴⁸ Tawnell D. Hobbs, *‘The Corpse Bride Diet’: How TikTok Inundates Teens With Eating-Disorder Videos*, WALL ST. J. (Dec. 17, 2021), <https://www.wsj.com/articles/how-tiktok-inundates-teens-with-eating-disorder-videos-11639754848>.

⁴⁹ Joseph Cox, *TikTok, the App Super Popular With Kids, Has a Nudes Problem*, VICE (Dec. 6, 2018), <https://www.vice.com/en/article/j5zbxm/tiktok-the-app-super-popular-with-kids-has-a-nudes-problem>.

Community Guidelines equally to all content as it promises and under-moderates because of gaps and flaws in its enforcement and detection system, including because of policy grey areas and failures to manage workflows. In effect, millions of videos that violate TikTok's policies proliferate on the app.

i. TikTok fails to remove violative content as promised.

71. TikTok promises to “remove *any* content . . . that violates our Community Guidelines.” (emphasis added). On its website, TikTok provides charts and graphs to support the claim that it effectively removes violative content. If accepted at face value by users, these statements and statistics suggest TikTok is effectively removing harmful content. But this is not true, as TikTok well knows.

72. In fact, as shown in internal documents, neither TikTok's automated tools, nor its human moderators, can effectively prevent harmful videos from being published on the app. Content “leaks” through TikTok's automated and human moderation processes either because it bypasses TikTok's moderation tools or because, though flagged, it falls through the “existing policy gaps and under-moderation” and thus is never removed. In either event, TikTok knows that its failure to remove this content as promised “results in exposing users to harm and/or discomfort,” including children.

73. TikTok's moderation problem is partly attributable to the fact that it primarily removes harmful content after it is posted on the platform *and* viewed by users, while the company admits internally it must be more proactive to be effective. Between early 2020 and late 2020, TikTok's ability to proactively detect harmful content actually *decreased*. It continues to rely heavily on users reporting prohibited content that is circulating on the app.

74. But the issue also persists because TikTok’s moderation system does not accurately identify policy violations. TikTok’s internal analyses from August 2022 show that its moderation systems were less than 50% accurate in certain categories of minor safety. It was closer to only 30% accurate in crucial categories: harassment and bullying, hateful behavior, violent and graphic content (including violent deaths or accidents in a real setting), normalization of pedophilia, sexual solicitation of minors, physical abuse of minors, leading minors off TikTok’s app, and glorifying the sexual assault of minors. That means TikTok allowed more than half of the content in those categories to be seen by users of its app, even though that content violates its policies. In fact, in the sample it analyzed, TikTok failed to catch even a single instance of content fetishizing minors, giving it a 0% accuracy rate.

75. TikTok has acknowledged internally that the metrics it shares with the public to assess its moderation accuracy are “misleading” because they “do not account for the content that we miss.” In other words, TikTok is only “good at moderating the content [TikTok actually] captures.” A parent looking at TikTok’s website might feel reassured by TikTok’s increasing rates of moderation success for metrics like “proactive removal” rate. But these metrics share a common flaw: they compare violations caught quickly against violations caught slowly. TikTok’s published metrics do not reflect at all how much violative content is not caught and therefore remains a danger to children.

76. Content featuring suicide, self-harm, and eating disorders continues to circulate widely on the app. In July 2022, TikTok admitted internally that content it failed to remove promoting or graphically depicting suicide or self-harm was the “key driver” of “issue-level badness.” In one sample, 34% of videos in the suicide and self-harm category were under-

moderated and failed to be taken down even though they violated TikTok's Community Guidelines. In effect, a large amount of the harmful content that exists on the app is live and visible on the app until, and *only if*, a user flags it as potentially violative or harmful. And even then, as described in more detail below, TikTok's human moderators struggle to correctly identify policy violations.

77. TikTok's [REDACTED], has acknowledged that exposure to content that is missed by TikTok and circulates on the app, such as exposure to violent content and dangerous challenges, can cause "permanent/irreversible damage (anxiety disorder, depression, etc.)" to youth.

ii. TikTok knows there are glaring gaps in its enforcement policies.

78. Contrary to its promises, TikTok knows it has a growing problem with content promoting eating disorders and other dangerous weight-loss behaviors. In February 2022, TikTok admitted internally that it had gaps in its dangerous weight-loss behavior policy, and that its policies failed to "treat many of the encompassed dangerous weight-loss activities in a manner commensurate to the potential harm to platform users" caused by extreme dieting, fasting, and excessive exercise.

79. Spurred in part as a reaction to the *Wall Street Journal*'s December 2021 investigation into the proliferation and recommendation of eating disorder content on TikTok, TikTok internally acknowledged—but did not admit publicly—that its policies had failed here. In internal documents, TikTok admitted that its policy shortcomings "bring[] into question TikTok's commitment to user safety, particularly as to younger users for which exposure to such

content may contribute to the development of eating disorders or an unhealthy relationship with food and body image.”

80. Yet, six months later, TikTok’s efforts to address this content were still falling short. TikTok admitted that these gaps exist because its policies “do not capture the nuance of [Eating Disorder] behaviors”—both content that depicts and promotes behaviors. There were notable gaps in enforcement and mis-moderation that were “harmful to vulnerable users, young viewers and pose reputation damage to the platform.” Thus, “[s]ignals, context, and behaviors are often missed by human moderation and machine learning.”

81. As yet another example, TikTok’s own Trust and Safety Team acknowledged that the company is not aligned on what constitutes sensitive or mature themes, like “when dancing is sexualized or not.” Further, content promoting or normalizing risky sexual behaviors to teens, including sexual acts like choking, sex without a condom (known on the app as “breeding kink”), sex work, and relationships between children and older adult men is a grey area that appears to fall between TikTok’s policy gaps; it is not a performance of “sexual activity,” does not expose nudity, and does not constitute a “seductive performance.”

82. Variations in regional policies and “local playbooks” for content moderation mean that sexualized content may be permitted in the region in which it is uploaded, and then rapidly reach other regions where the same content would have been barred. “As a result, safeguards did not work as intended for local markets[,]” and users are unwillingly exposed to sexualized material.

iii. Despite its promises, TikTok knows it has an ineffective moderation system.

83. TikTok is aware that its human moderation systems are disorganized and under-resourced to keep up with the number of policy violations that accumulate on the app, and that its moderators do not have the requisite language skills or training to understand the moderation process (let alone TikTok's policies).

84. Enforcement errors occur frequently because TikTok's moderators misunderstand the company's policies or miss key contextual or implicit references to violative material. TikTok internally attributes moderation issues to "diligence errors," "content comprehension," "subjective thought processes," "lack of process knowledge," and "flow moderation." For example, company documents show that TikTok's moderators are confused about whether they should remove videos that implicitly reference suicide or self-harm, or only videos that make explicit reference or clearly depict blood or wounds. Moderators are also often not proficient in the language of the content they are supposed to review, and therefore cannot even identify violations.

85. It is unsurprising that TikTok's time-strapped moderators struggle to make sufficient and accurate policy judgment calls, given the inadequate resources the company provides to the effort. Moderators are expected to review up to 1,000 videos a day, which gives them less than twenty seconds on average to make careful and sensitive conclusions about potentially harmful content, including self-harm, suicide, sexual behavior, and drug abuse.⁵⁰

⁵⁰ Olivia Carville, *TikTok's Problem Child Has 7 Million Followers and One Proud Mom*, BLOOMBERG (Dec. 12, 2022), <https://www.bloomberg.com/news/features/2022-12-12/-teentok-influencers-test-tiktok-s-rules-straining-moderators#xj4y7vzkg>.

Former moderators admit that they struggled to meet TikTok’s aggressive quotas while consistently working twelve-hour days under strict working conditions.

86. The lack of resources, demands on the moderators, and policy disorganization alone could explain why prohibited content is leaked onto the app, but TikTok goes a step further. TikTok intentionally instructs its moderators to adopt an “if in doubt, leave it up” mantra.⁵¹

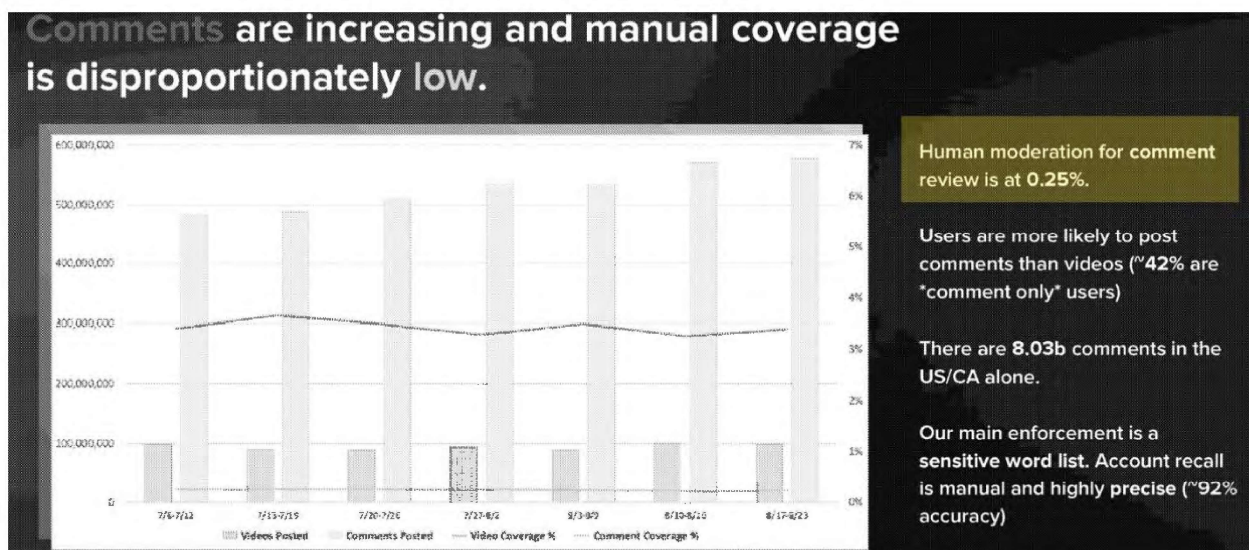
87. TikTok fails to adequately train moderators on its policies and guidelines, leading moderators to make errors. For instance, a 2022 internal survey of TikTok’s moderation performance showed moderation accuracy ratings of only 39% for harassment and bullying and 49% for hateful behavior. Despite incorrectly moderating violent and graphic content 54% of the time, TikTok failed to fix the issue simply because it had not assigned a policy point of contact to those subject areas.

88. TikTok’s failure to implement an effective enforcement system and adequately train and support its moderators has devastating consequences for children using the app. In effect, millions of disturbing, harmful videos and user comments that violate TikTok’s policies are unleashed on unsuspecting children—including children here in Utah.

89. TikTok also knowingly fails to even review entire categories of violative material on the app despite promising its consumers otherwise. For example, despite representing that TikTok’s policies also apply to “comments and messages” and a violation “will result in the removal of content,” TikTok’s human moderators fail to monitor the overwhelming majority of comments. TikTok’s moderators review only 0.25% of user comments—despite knowing that

⁵¹ *Id.*

42% of its users (over 600 million people) only post comments, not videos, on the app. In the U.S. alone, there are over eight billion comments on videos, most of which apparently persist on the app without *any* meaningful review whatsoever. See Figure 8 below, showing TikTok’s internal enforcement gaps.



(Figure 8.)

- iv. ***Rather than honor its moderation promises, TikTok instead materially contributes to the prevalence of Child Sexual Abuse Material on its app.***

90. Despite publicly claiming that it has a “zero tolerance” policy for child sexual abuse content and is committed to developing “industry-leading tools,” TikTok has acknowledged internally that the problem continues to grow out of control, in large part because it never implemented its promises to launch detection and reporting strategies for sexual abuse material. As one TikTok team leader put it:

Frankly we are not doing nowhere near enough work in this field and most of our work is reactive takedowns. Not only is this poor in efficiency, we are letting our users down who have to see [CSAM] content and then report to us.

91. To further its public deception and maintain a mirage of minor safety, TikTok routinely announces strong commitments to promoting and supporting policies to protect against the sexual exploitation of children—including announcing tools such as the photo identification technologies and hashing (*i.e.*, unique digital fingerprints assigned to images and videos), and announcing partnerships with organizations like the National Center for Missing and Exploited Children (“NCMEC”).⁵²

92. In 2019, TikTok reported only 596 cases of child-related sexual abuse material, but in 2022 that number had ballooned to 288,125.⁵³ However, even that, though demonstrating a steep increase, severely underreports the extent to which CSAM proliferates on the app and goes undetected by TikTok.

93. TikTok knows that it currently has low moderation accuracy for harmful CSAM-related violations, and that exploitative, child sexual abuse material has a 26% leakage rate on the app. TikTok has internally acknowledged what this means: “In effect we are missing . . . 1 in 4 . . . violative content due to leakage.” Surveys conducted by the company also demonstrate that TikTok knows that 40% of users encounter inappropriate content related to children, suggesting that a significant amount of harmful material depicting child sex abuse and exploitation exists on the app *without* TikTok even detecting it.

⁵² TIKTOK, *Protecting against exploitative Content* (Mar. 2020), <https://newsroom.tiktok.com/en-us/protecting-against-exploitative-content>.

⁵³ NAT’L CTR. FOR MISSING & EXPLOITED CHILDREN, *2019 and 2022 CyberTipline Reports by Electronic Service Providers (ESP)*, <https://www.missingkids.org/content/dam/missingkids/pdfs/2019-reports-by-esp.pdf> and <https://www.missingkids.org/content/dam/missingkids/pdfs/2022-reports-by-esp.pdf> (last visited Oct. 8, 2023).

94. Internal chats between TikTok employees also show that the company knows CSAM is a big problem on the app. Among children who share CSAM of themselves, 46% use the TikTok app daily—a number that TikTok employees acknowledge is “concerning and seem[s] to confirm suspicions that we have a large base of under 12 on our app, AND that they are sharing CSAM content.

95. According to some TikTok employees, the problem “feels like an emergency that we should assemble a task force to address.” Despite this knowledge and its promises to consumers that it takes steps to remove this content, TikTok has done little to address this “emergency.”

96. In January 2020, years after launching the app, enforcement on CSAM was still ad hoc and reactionary. In one glaring example, an employee shared an article about pedophiles taking to Twitter to share child pornography using certain terms. Obvious predatory hashtags such as “Jailbait,” “Jailbait kids,” “Underagejailbait,” and “Underagemega” had evidently not made onto to TikTok’s blacklisted terms and were therefore searchable on the app.

97. In May 2021, just months after TikTok publicly announced to the Office of the United Nations High Commissioner for Human Rights that it was using tools—namely NCMEC’s image hashing technology⁵⁴—aimed at protecting children from CSAM, the company admitted internally that it had never used those tools: “Hey [REDACTED], could you please share the current status of the issue? From previous chat in the group, we promised we were using NCMEC hashed to detect CP content, but we actually didn’t.” The use of NCMEC’s hash

⁵⁴ Letter from TikTok to Office of the UN High Commissioner for Human Rights (May 28, 2021), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36317>.

technology, if used, would have helped TikTok identify known images of CSAM circulating on the app. Instead, TikTok failed to integrate with the hashing database, apparently, in part, because employees could not even figure out the proper account username and password to connect with NCMEC's production environment and run tests.

98. TikTok employees know that its current tools allow a significant amount of CSAM to go undetected because TikTok has very limited ways to detect newly created content, including content made by underage TikTok users themselves.

99. Further, TikTok continues to rely on user reports (rather than proactive detection) to identify CSAM. According to its own employees, this presents a "high risk." Policy discrepancies and disconnects have led moderators to leave child nudity videos viewable and available to those users who want to see them. For example, in the fall of 2020, TikTok figured out that different enforcement teams used different definitions of the term "toddler" and responded differently to displays of private body parts.

100. As recently as April 2023, TikTok had only *just* launched tools relating to identifying potential sexual abuse of children, including CSAM and grooming (*i.e.*, the sexual solicitation of children). But even then—and five years after introducing its product to the United States—TikTok has still not launched a comprehensive "underage detection strategy," is still unable to enforce policy violations due to "grey areas" relating to children, and is still trying to educate its moderators to detect CSAM.

101. The children whose sexual abuse and exploitation is documented and maintained on TikTok suffer very real harms. The depictions of their abuse are now outside of their control and the trauma is amplified by the mere possibility of being passed around and viewed by

predators (and others) indefinitely. They face an increased number of very real threats from predators including stalking, unsolicited messages, sexual solicitation or grooming behavior, and physical harm. These horrific risks persist for the parents and children of Utah even after TikTok publicly represented that it does not allow youth exploitation or abuse, nor content that may put young people at risk of exploitation and psychological, physical, or developmental harm.

v. ***TikTok has failed to uphold its promises to protect children from online predators.***

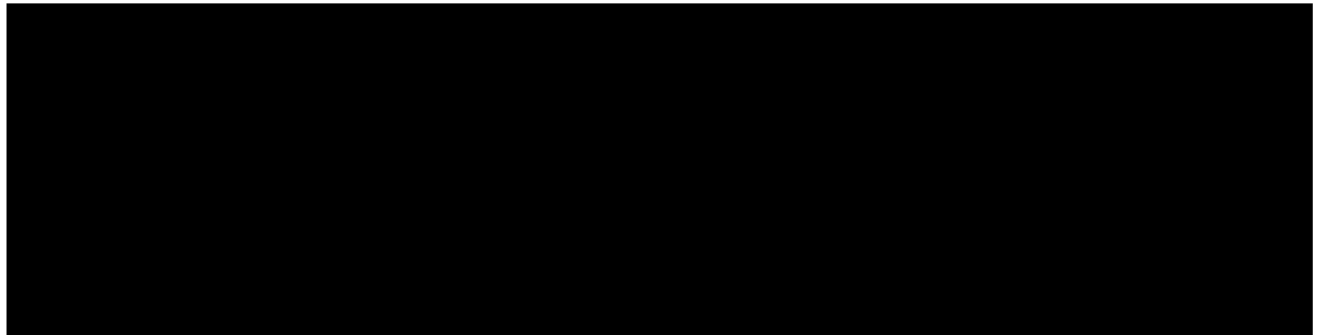
102. TikTok assures its users that it “takes child safety with the utmost seriousness[.]” is “deeply committed to ensuring that TikTok is a safe and positive experience for people under the age of 18,” and has a “zero tolerance for predatory or grooming behavior towards minors.” Despite this promise, TikTok lacks the capability to meaningfully and proactively “screen” users to prevent child predators from operating on the app as the company and its CEO claim.

103. Protecting against child predators is an important representation—especially for apps like TikTok that intentionally target young consumers. It is a well-known fact that child-predators are attracted to venues that children enjoy—like the TikTok app—because it allows these predators easy access to view and interact with them. With a powerful algorithm that knows *exactly* what users want, the TikTok app is a perfect playground for child predators. TikTok serves these child predators an infinite number of videos with children dancing, and myriad ways for them to interact with young users—including through likes, follows, comments, and direct messages.

104. Contrary to its representations, TikTok’s moderators lack sufficient skills to even identify child predatory behavior when they see it. In a January 2021 survey asking TikTok’s Trust and Safety Team employees about the most challenging “grey areas” where TikTok’s

policies were unclear or ambiguous, one employee described several cases of user accounts “where [REDACTED] . . . but when [REDACTED] [REDACTED] is obviously predatory behavior.” Some of these accounts remain on the app because they are dedicated to [REDACTED]

105. Despite employees identifying these problems in 2021, TikTok still failed to adequately address this over a year and half later. In July 2022, the Trust and Safety team acknowledged that a glaring gap in TikTok’s moderation processes was its failure to monitor [REDACTED]—an optimal way to catch predator accounts who [REDACTED] [REDACTED] See Figure 9 below, featuring an identified policy gap from a July 2022 internal company memo titled [REDACTED]



(Figure 9.)

106. Because TikTok fails to adequately moderate or review user comments, the company misses obvious predatory behavior. For example, in February 2023, a twenty-six-year-old Utah man and registered sex offender was arrested and charged with kidnapping and rape after a missing fourteen-year-old girl was found in his basement. According to the charging documents, the man had initially made contact with the fourteen-year-old girl by commenting on her TikTok account. Eventually, he was able to obtain the teen’s address by asking if he could

send her food through a delivery app. The charging documents report the girl was raped every night while she was held hostage in the man's home.

107. Despite TikTok telling the public that the app is a safe place for children, TikTok does not adequately moderate predatory behavior, leaving more children exposed to predators through comments, video likes, direct messages, and in other harmful ways, such as leading vulnerable children off the TikTok app to engage with them in person.

108. Meanwhile, TikTok enthusiastically analyzes engagement behaviors, including likes and comments, to increase the sales of advertisements on its app—the primary driver of TikTok's profits. For instance, TikTok allows businesses to retarget users that have previously engaged with a brand's ad content, who were initially targeted through user behaviors like video clicks, impressions, and views.

109. Several Trust and Safety policy leaders also recall TikTok asking them “to be lenient on creators with more than 5 million followers”—suggesting that TikTok's enforcement is inconsistently or selectively applied rather than congruent with the company's public commitments to applying its rules to “everyone and everything” on the app.

110. In fact, TikTok has a disturbing history of favoring certain content creators who were children just because of their immense popularity on the app—including Charli D'Amelio, a young TikTok mega star with over 150 million followers. In January 2020, TikTok adopted a new “age-gate” policy designed to suppress recommendations of content made by creators younger than sixteen years old. But the rules did not apply to popular TikTok influencer Charli D'Amelio (who was fifteen years old at the time), whom employees acknowledged was a “real asset for the company” due to high user engagement, despite her posting content that “triggers

[TikTok’s] policies.” Despite TikTok’s policy, fifteen-year-old Charli was given “full privileges . . . available for all to view and interact with”—indicating TikTok cares more about the popularity of its app than protecting children. *See* Figure 10 below, showing policy misalignment on minors from an August 6, 2020 TikTok PowerPoint.

Minor Safety: misalignment of enforcement



(Figure 10.)

111. These favored child creators are both the subjects of exploitation—financially by TikTok, and sexually by adults online—and the cause of harm to other children, who have found TikTok-approved role models of their own age who act and dress like adults.

vi. *The compounding harms caused by “filter bubbles” remain unaddressed despite TikTok’s representations.*

112. As detailed above, TikTok’s algorithm works to trap teenagers, who may initially be drawn to watching weight-loss and body-image content, or suicide and self-harm content (or, perhaps, are suggested this due to their age or other interests), into “filter bubbles.”

113. Concerns about the algorithm sending children into these downward spirals of depressive content have been circulating internally at TikTok since at least 2020—and likely

well before. One former employee, Charles Bahr, told his superiors that “the algorithm was sending Generation Z users endless streams of depressing and suicide-glorifying videos.”⁵⁵ A few months after raising the problem, TikTok fired Bahr.⁵⁶

114. Some activities that continue to slip through TikTok’s policies and remain unmoderated and available to children on the TikTok app are physically dangerous but becoming normalized among teens due to their prevalence. Choking, for instance, poses risks of physical harm including death, but has become widespread in teen hookup culture, at least nationally. TikTok videos that discuss so-called “breeding kinks” encourage teens to have unprotected sex, which is romanticized on the app and can lead to disease transmission and teen pregnancy. Even if this content were not dangerous or age-inappropriate on its own (which it is), when part of a filter bubble on a child’s “For You” feed, the activities start to appear normal and the child feels pressure to conform.

115. TikTok knows that “filter bubbles” are harmful but blames the issue on a “grey area” of their policies consisting of content that is not harmful in isolation but “can negatively influence users when the content is consumed in a condensed way.”

116. TikTok’s public representations that it “addressed” filter bubbles amount to minor tweaks that have proven ineffective. For instance, TikTok allows users to “refresh” their feeds if “recommendations no longer feel relevant” or do not “provide enough topical variety,” and it does not recommend “two videos in a row made by the same creator or that use the same sound.”

⁵⁵ Olivia Carville, *TikTok’s Algorithm Keeps Pushing Suicide to Vulnerable Kids*, BLOOMBERG (Apr. 20, 2023), <https://www.bloomberg.com/news/features/2023-04-20/tiktok-effects-on-mental-health-in-focus-after-teen-suicide>.

⁵⁶ *Id.*

These modest changes have not stopped the app from recommending increasingly despairing messages, adult themes, and other dangerous content that violate TikTok’s policies.

117. Other efforts backfired completely. When running initial tests on a strategy to “disperse” similar content, TikTok found that nearly 10% of videos pushed to the account included *more* mature themes than in the past—a “concerning” result given that those themes were not searched for or present on the account before introducing the dispersion tool.

118. Unsurprisingly and disturbingly, nothing has changed; the app continues to quickly recommend graphic, violent, and distressing content to children, including showing a thirteen-year-old videos about disordered eating, self-harm, and videos celebrating or encouraging suicide within thirty minutes of creating an account.⁵⁷ Since TikTok’s launch, videos tagged with suicide content amassed over 1.43 million posts and 8.8 billion views and were readily available to children.⁵⁸

119. This demonstrates that TikTok’s representations that it “takes child safety with the utmost seriousness[,]” and is “deeply committed to ensuring that TikTok is a safe and positive experience for people under the age of 18” are deeply misleading.

vii. *TikTok fails to rein in dangerous challenges that push children to participate.*

120. Challenges are videos and content that encourage others to create and post their own videos of them performing a certain activity. Daily challenges were a defining feature of TikTok’s predecessor app, Musical.ly, and one that TikTok actively sought to amplify by

⁵⁷ *Deadly by Design: TikTok pushes harmful content promoting eating disorders and self-harm into users’ feeds.*, CTR. FOR COUNTERING DIGIT. HATE (Dec. 2022), https://counterhate.com/wp-content/uploads/2022/12/CCDH-Deadly-by-Design_120922.pdf.

⁵⁸ *Suicide, Incels, and Drugs: How TikTok’s Deadly Algorithm Harms Kids*, EKO 6 (March 2023), https://s3.amazonaws.com/s3.sumofus.org/images/eko_Tiktok-Report_FINAL.pdf.

reaching out to influencers and encouraging them to participate in challenges. TikTok wanted to increase participation in these challenges, in part, because it generates significant user interest and engagement on the app—and therefore increases TikTok’s income.

121. But what began as innocuous, goofy, and even altruistic challenges have transformed into twisted, dangerous, and deadly for the app’s youngest users. These dangerous challenges operate much like peer pressure, taunting teenagers into perilous, destructive action. They encourage teens to engage in reckless conduct in exchange for more dopamine-rewarding “likes” on the app and they spread horrific hoaxes about topics including sexual assault, all of which deepen anxieties and spread fear. Dangerous challenges are nominally prohibited on the app, but TikTok struggles to identify dangerous acts and challenges, resulting in significant under-moderation and leakage.

122. TikTok spokespeople claim the company takes “each and every report of an alleged dangerous act or challenge incredibly seriously.” However, its internal investigations merely look for ways to deflect blame—finding that because the children who died were on multiple social media apps, there was no way to prove which app led them to the challenge.

123. Where TikTok has claimed it monitors ongoing dangerous challenges, like the “Skullbreaker Challenge” that emerged in February 2020 (involving two people tricking a third person into jumping into the air and then intentionally tripping the jumper on the way down—resulting in a hard fall and potentially severe injuries), yet it does so only by monitoring the specific name of the challenge itself. A number of videos did not contain that name, however; instead, the connection to the challenge was evident in use of related hashtags or a similar soundtrack. For instance, TikTok’s moderators never looked into the hashtag #rompecraneos

(Spanish for “break skulls”), which was widely used in the Skullbreaker Challenge, creating a massive gap in TikTok’s moderation of these videos.

124. These challenges have killed children. The blackout challenge, which went viral on TikTok in early 2021, encourages the viewer to try to hold their breath or asphyxiate (either manually or by having someone else choke them) until they pass out. In just eighteen months, the blackout challenge was linked to the deaths of at least twenty kids under the age of fifteen, at least fifteen of whom were twelve or younger when they died. In January 2021, for instance, a ten-year-old girl in Italy died after attempting the “blackout challenge.” She spent as much as ten hours a day on TikTok and, like many kids her age, had falsely claimed she was older than thirteen when she created her account.

125. Just a month after TikTok announced in March 2022 that it was strengthening efforts to regulate and remove content about dangerous challenges, Utah teens were exposed to videos encouraging them to shoot strangers with gel guns as part of the so-called “Orbeez Challenge.” One Utah teen lost her eyesight after being hit in the eye because of this challenge, and other Utahns, including little children, have also been harmed and violated, leading to physical injuries. And that was not the only time dangerous challenges or hoaxes took place in Utah.⁵⁹ Utah high school students have also vandalized school restrooms as part of the “Devious

⁵⁹ Melanie Porter, *Utah State cracking down on ‘Orbeez’ TikTok challenge*, FOX 13 (Apr. 14, 2022), <https://www.fox13now.com/news/local-news/usu-cracking-down-on-orbeez-tiktok-challenge>.

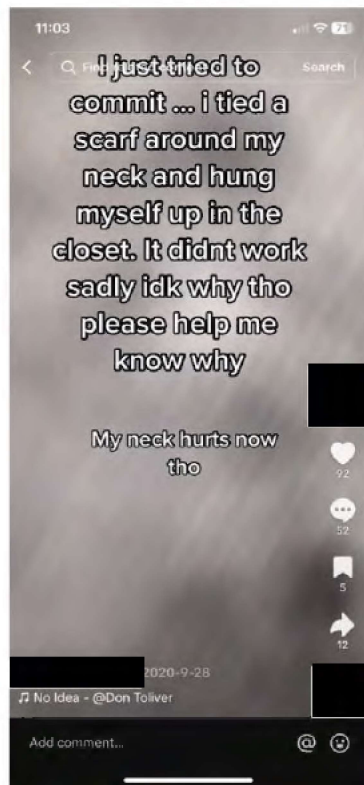
Licks” challenge,⁶⁰ and Utah high school girls were threatened with sexual assault after a flood of posts about a supposed “National Rape Day” in April 2021.⁶¹

126. Despite TikTok’s and its CEO’s representations that it takes dangerous challenges seriously and they are not allowed on the app, the experience of parents and children in Utah prove differently. Even today, harmful challenges and hoaxes, including those that encourage self-harm and suicide, *still* persist on the app even with obvious searchable names such as “choking yourself,” “NyQuil Chug,” and “death is a gift.”⁶² See Figures 11 and 12 below, depicting TikTok videos using the search terms “choking myself with scarf” and “death is a gift.”

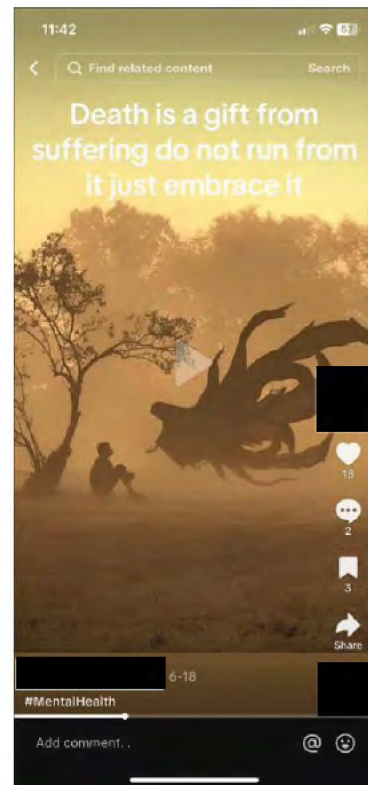
⁶⁰ Marjorie Cortez, *The ‘Devious Lick’ TikTok challenge that’s provoking thefts, vandalism at schools nationwide has hit Utah*, DESERET NEWS (Sept. 15, 2021), <https://www.deseret.com/utah/2021/9/15/22676418/tiktok-challenge-provoking-thefts-vandalism-school-property-utah-nationally>.

⁶¹ Courtney Tanner, *A student at a Utah high school threatened to carry out a ‘rape day’ against girls*, THE SALT LAKE TRIB. (Apr. 23, 2021), <https://www.sltrib.com/news/education/2021/04/23/utah-high-school-student/>.

⁶² TikTok continues to publish, distribute, and promote many videos through its search function and recommendation algorithm, which depict extremely harmful, dangerous challenges. In the interest of respecting user privacy and mental health, they are not included in this Complaint.



(Figure 11.)



(Figure 12.)

viii. Age-gating is ineffective because TikTok has not verified users' ages.

127. Over the years, TikTok has publicly advertised new tools to help moderate and limit distribution of certain material. One of these is TikTok's half-hearted effort to age-gate both the app itself, and certain content. "Age-gating" refers to the practice of blocking certain content or features based on a user's age.

128. In December 2022, TikTok announced it was "Strengthening Enforcement of Sexually Suggestive Content," and discussed the "content levels" system to keep content with "more mature or complex themes" from children aged thirteen to seventeen. Similarly, in December 2022, TikTok announced the ability to filter profanity for certain ages; yet six months later, internal company reports suggest that the filter project was very much still in the works and had only been "soft-launched" in a few English-speaking countries.

129. The company also claims that it actively looks for underage users on its app, which purports to only allow users aged thirteen and over.

130. Yet all of TikTok's age-gating policies are plagued by a fundamental flaw: TikTok allows underage users to falsify their birthday and does nothing to verify their stated age. Because the company fails to identify users' ages, it exposes children to content and themes that it knows are inappropriate or even dangerous.

131. One of those innocent children was nine-year-old Arriani Arroyo, who died from asphyxiation while participating in the blackout challenge, or, as her five-year-old brother who watched her get strangled to death put it: "playing a game . . . they saw on TikTok."

132. Though TikTok claims it actively looks for suspected underage user accounts, Arriani Arroyo's account was never removed even though her young age was obvious; her profile picture was of her nine-year-old face, and she routinely posted videos of herself laughing and dancing. Her account had 260 followers and her final post had 457 views.

133. TikTok knows its efforts to detect underage users falls short, yet it has not implemented easily available age-estimating software that can immediately identify children under thirteen years old. Such technology exists, and it works. When investigative reporters sent a video of Arriani a few weeks before her death to one company that designs age-estimating software, it took only three seconds for the software to estimate that Arriani was ten years old. She died just three months shy of her tenth birthday.

ix. By failing to enforce its drug policies, TikTok allows drug promotion and sales to flourish on its app.

134. Despite representing that TikTok does "not allow" the depiction, promotion, or trade of drugs or other controlled substances, TikTok inconsistently enforces rules against drug-

related content. As a result, videos that TikTok does not enforce and remove surface on a user's "For You" feed, meaning that TikTok actively pushes violative videos with drug content on users, including children. TikTok's failure to live up to its promises has had devastating consequences for children.

135. As of December 2021, TikTok's policies for drugs and controlled substances did "not adequately encapsulate the wide range of content that exists on the platform . . . caus[ing] significant levels of leakage, confusion, and mismoderation due to policy gaps." This is in part because TikTok's blanket drug policy covers a broad range of drugs and an "almost incoherent range of scenarios and exceptions" that are hard to understand and "often do not reflect the way users are posting content, especially regarding satirical and comedic content." Internally, TikTok did not even have a policy for how to enforce its drug content in its Community Guidelines. It relied instead on "ad hoc, reactive policy guidance," which it admits "is unsustainable in the long-term."

136. TikTok even fails to adequately enforce its drug-content policies from this reactive posture. For years, TikTok has received external, public reports that drug-glamorizing content and drug sales were proliferating on its app. In a September 2021 report by the *Washington Post*, DEA Administrator Anne Milgram said that fentanyl- and meth-laced counterfeit pills were being sold on the TikTok app.⁶³ But more than a year later, drug content and sales remained easily accessible on the app, including prescription drugs such as Xanax,

⁶³ Devlin Barrett and Elizabeth Dwoskin, *With overdose deaths soaring, DEA warns about fentanyl-, meth-laced pills*, WASHINGTON POST (Sep. 27, 2021), https://www.washingtonpost.com/national-security/dea-warning-counterfeit-drugs/2021/09/27/448fcb18-1f27-11ec-b3d6-8cdebe60d3e2_story.html.

Percocet, and OxyContin, as well as illegal recreational drugs like cocaine, MDMA, LSD, and marijuana.⁶⁴ Pills like these, which are often laced with fentanyl, are fueling the already deadly opioid epidemic. In 2021, nearly 70,000 American adults fatally overdosed on fentanyl. Of those fentanyl overdoses, 1,808 of the deaths were adolescents. And the occurrence of fatal overdoses has rapidly increased; between the last half of 2019 and the last half of 2021, the number of adolescents fatally overdosing on fentanyl more than doubled.⁶⁵

137. TikTok is now also a key marketing channel for off-label performance enhancements and steroid drugs, such as selective androgen receptor modulators (commonly called “SARMs”), which are synthetic variations of the male sex hormone testosterone. These steroid-like drugs are subject to strict regulation under the Controlled Substances Act and not approved by the U.S. Food Drug and Administration (“FDA”).

138. These steroid-drugs have racked up hundreds of millions of views on TikTok in the U.S. Some reports have found that these drugs have racked up *over 500 million views* among U.S. users on the TikTok app alone. These drugs are dangerous to teens and are associated with serious and life-threatening health problems like heart attacks, hallucinations, sleep disturbances, and liver failure. The FDA recently issued a warning to consumers specifically that these drugs are being marketed and targeted to teenagers and young adults on social media channels as a “quick or easy way to improve physical appearance, gain muscle mass, or increase athletic

⁶⁴ *Suicide, Incels, and Drugs: How TikTok’s Deadly Algorithm Harms Kids*, EKO 5 (March 2023), https://s3.amazonaws.com/s3.sumofus.org/images/eko_Tiktok-Report_FINAL.pdf.

⁶⁵ Lauren J. Tanz, et al., *Drug Overdose Deaths Among Persons Aged 10–19 Years — United States, July 2019–December 2021*, 71 (50) MORBIDITY AND MORTALITY WKLY. REP. 1576 (Dec. 16, 2022), <https://www.cdc.gov/mmwr/volumes/71/wr/mm7150a2.htm>.

performance.”⁶⁶ SARMS and steroid-related drugs remain searchable on TikTok and are actively pushed to children by TikTok on their For You feeds.

IV. TikTok misrepresents itself as an independent U.S. company when it is still firmly controlled by its Chinese parent company.

139. TikTok consistently portrays itself as a U.S.-based company independent of ByteDance, its Chinese parent company. It engages in this deception to avoid questions and skepticism from consumers about the safety of their data and scrutiny from regulators. In truth, TikTok remains firmly controlled and managed by ByteDance and any alleged independence is a facade.

140. For example, in recent public postings on its website, TikTok creates an appearance that it is independent from its parent company by claiming that it is a myth that “[d]ecisions about TikTok are made in Beijing.”

141. Similarly, on March 23, 2023, TikTok’s CEO Shou Zi Chew told the U.S. House of Representatives Committee on Energy and Commerce that there has been no Chinese control or influence over TikTok or its app, claiming:

As CEO, I am responsible for all business operations and strategic decisions for TikTok. TikTok, as a U.S. company incorporated in the United States, is subject to the laws of the United States. TikTok has never shared, or received a request to share, U.S. user data with the Chinese government. Nor would TikTok honor such a request if one were ever made.”⁶⁷

⁶⁶ U.S. FOOD AND DRUG ADMINISTRATION, *FDA Warns of Use of Selective Androgen Receptor Modulators (SARMS) Among Teens, Young Adults*, (Apr. 16, 2023), <https://www.fda.gov/consumers/consumer-updates/fda-warns-use-selective-androgen-receptor-modulators-sarms-among-teens-young-adults>.

⁶⁷ *Testimony Before the U.S. House Committee on Energy and Commerce, Written Statement of Testimony Shou Chew*, 118th Cong. 9 (2023) (written statement of Shou Chew, Chief Executive Officer, TikTok Inc), <https://docs.house.gov/meetings/IF/IF00/20230323/115519/HHRG-118-IF00-Wstate-ChewS-20230323.pdf>.

142. TikTok instructs employees to publicly downplay the relationship between ByteDance and TikTok. Internal company documents leaked to Gizmodo suggested “key messages” such as to “downplay the parent company ByteDance, downplay the China association.” TikTok similarly tells its spokespeople to include language in press communications like: “We have not and will not share user data with the Chinese government, and would not do so if asked.”⁶⁸

143. These statements are misleading at best. Though TikTok itself is headquartered in both Los Angeles and Singapore, which are not in mainland China, the company remains heavily controlled by ByteDance, which is headquartered in Beijing. Indeed, TikTok employees raised alarms internally after its CEO’s March 2023 statements about TikTok’s alleged independence because “they felt Chew’s statements to Congress misrepresented TikTok’s relationship with ByteDance.”⁶⁹

144. TikTok is, at most, a nominally separate corporate entity. It is unable to operate independently from ByteDance, which continues to house TikTok’s HR department and in-house legal department. TikTok’s e-commerce department reports directly to ByteDance’s CEO, rather than TikTok’s CEO. TikTok also continues to rely on access to ByteDance’s resources, expertise, and code to operate.

⁶⁸ Chris Stokel-Walker, *Inside TikTok’s Attempts to ‘Downplay the China Association’*, GIZMODO (July 27, 2022), <https://gizmodo.com/tiktok-master-messaging-pr-playbook-china-music-1849334736>.

⁶⁹ Georgia Wells, *TikTok Employees Say Executive Moves to U.S. Show China Parent’s Influence*, WALL ST. J. (Sep. 27, 2023), <https://www.wsj.com/tech/tiktok-employees-say-executive-moves-to-u-s-show-china-parents-influence-ef5ff21f>.

145. ByteDance therefore continues to make decisions “both large and small” about all aspects of TikTok. It directs TikTok’s budget, operates TikTok’s internal document storage platform, and handles media criticism directed at TikTok. And throughout 2023, ByteDance transferred some of its own high-level executives into key positions at TikTok, including some directly from ByteDance’s Beijing headquarters.

146. The companies remain so enmeshed that all TikTok employees have ByteDance listed on their checks and tax returns. TikTok employees also have both ByteDance and TikTok email addresses—which deliver mail to their TikTok email addresses, and vice versa.

147. ByteDance also enters into contracts on behalf of TikTok to provide key services for the TikTok app. For instance, until 2021, ByteDance contracted with Atrium Staffing Services to provide content moderators for TikTok’s platform. When TikTok became the nominal contracting entity in 2021 for these content moderation services, the replacement contract was still signed on behalf of TikTok by a ByteDance executive. *See* Figure 13, showing a contract between TikTok and Atrium Staffing Services, a third-party contracting service.

TIKTOK INC.	DocuSigned by:
Signature:	 AAEDB92D58C44EE
Name:	Zhao Liu
Address:	
Date:	11.22.2021 11:10:59 下午 PST

(Figure 13.)

148. And though the TikTok app is not available for users in China, much of the Recommendation Engine is the same as in ByteDance’s Chinese version of the TikTok app,

Douyin. Significantly, the source code that still makes up TikTok’s recommendation algorithm was originally written by ByteDance employees in China.

149. Since January 2023, TikTok has operated a subsidiary corporate entity known as TikTok U.S. Data Security (“USDS”). TikTok has also set up a partnership with Oracle, a U.S.-based cloud-based services provider, and now routes its U.S. traffic through Oracle’s network, with the data from this traffic stored only in locations in the United States. The purported purpose of USDS is to protect the data TikTok collects on its U.S. users from TikTok’s own employees, as well as from ByteDance’s employees. TikTok employees’ requests for U.S. data, allegedly, must undergo review by USDS employees. As of March 2023, TikTok and USDS had not yet fully implemented this review process.⁷⁰

150. These minor changes are no more than mere window dressing because China’s export technology laws have not permitted ByteDance to sell TikTok or USDS to an independent, non-Chinese company. That is, TikTok’s algorithms or true control over its users’ data could not be sold to a U.S.-based company without the approval of the Chinese government, according to the Chinese Commerce Ministry.⁷¹

151. Moreover, ByteDance, which continues to control TikTok, is subject to the laws of China, including technology export laws and laws requiring tech companies to provide user data to the Chinese government. Chinese companies are required by China’s 2017 National Intelligence Law to “provide support and assistance to and cooperate with the State intelligence

⁷⁰ *Testimony Before the U.S. House Committee on Energy and Commerce, Testimony of Shou Chew*, 118th Cong. (Mar. 23, 2023), <https://www.c-span.org/video/?526609-1/tiktok-ceo-testifies-house-energy-commerce-committee-hearing>.

⁷¹ Raffaele Huang, *China Says It Opposes Forced Sale of TikTok*, WALL ST. J. (Mar. 23, 2023), <https://www.wsj.com/articles/china-says-it-opposes-a-forced-sale-of-tiktok-1a2ffc62>.

work, and keep secret the State intelligence work that they know.” According to experts, this law makes it mandatory for Chinese companies to turn over data to the government even where the data is collected outside of China. A 2020 Data Security Law, which explicitly applies extraterritorially, also demands that businesses keep all data “generated” in China within China, and that they conduct a government-mandated security assessment before transferring it abroad.

152. In short, TikTok’s public statements that it is independent of its Chinese-based parent company, and thus Chinese law, are false and misleading.

COUNT ONE
Unconscionable Acts or Practices Concerning Underage Consumers
Violation of Utah Consumer Sales Practices Act, Utah Code § 13-11-5.

153. The Division re-alleges and incorporates all other paragraphs of this Complaint, as if fully set forth herein.

154. The UCSPA is a remedial statute intended “to be construed liberally . . . to protect consumers from suppliers who commit deceptive and unconscionable sales practices.” Utah Code § 13-11-2.

155. The goods, services, and software products TikTok provides are transferred and disposed to users for personal, family, and household purposes, and therefore are consumer transactions.

156. TikTok regularly and in the ordinary course of business provides these goods, services, and software products to and for consumers, and therefore is a supplier under the UCSPA.

157. The UCSPA prohibits unconscionable acts and practices by a supplier in connection with a consumer transaction, whether before, during, or after the transaction takes place.

158. TikTok's Recommendation Engine and the features of its app are addictive to children. Indeed, they were designed to be addictive. TikTok further hid or disincentivized features that could decrease children's time spent on the app, or their engagement with the app. Addicting children, and ensuring their continued addiction, is an unconscionable trade practice in violation of the UCSPA, Utah Code § 13-11-5.

159. At all times relevant to this Complaint, TikTok was aware of the addictive nature of the TikTok Recommendation Engine and the TikTok app, and jointly exercised control over the design and implementation of the Engine and app.

160. TikTok directly profited from addicting children to the app and continued to capitalize on the addictive nature of the app despite knowing the harm that addiction would cause Utah's children.

COUNT TWO
Deceptive Acts or Practices
Violation of Utah Consumer Sales Practices Act, Utah Code § 13-11-4.

161. The Division re-alleges and incorporates all other paragraphs of this Complaint, as if fully set forth herein.

162. The goods, services, and software products TikTok provides are disposed to users for personal, family, and household purposes, and therefore are consumer transactions.

163. TikTok regularly and in the ordinary course of business provides these goods, services, and software products to and for consumers, and therefore is a supplier under the UCSPA.

164. The UCSPA prohibits deceptive acts and practices by a supplier in connection with a consumer transaction, whether before, during, or after the transaction takes place. Utah Code § 13-11-4(1)

165. By engaging in the acts and practices alleged in this Complaint, TikTok committed deceptive acts and practices, including by making or causing to be made to Utah consumers, directly or indirectly, explicitly or by implication, misrepresentations of material facts in violation of the UCSPA, Utah Code § 13-11-4(1). TikTok's misrepresentations include, but are not limited to the following:

- a. TikTok's app is a safe environment for users of all ages and children, specifically;
- b. TikTok works to support the well-being of everyone on the app;
- c. TikTok worked to address issues with its recommendation algorithm, including filter bubbles, as early as June 2020;
- d. TikTok's policies are strict and apply to everyone;
- e. TikTok prohibits content about dangerous challenges, bullying, drugs, mature themes, disordered eating and weight loss, suicide and self-harm, and content that exploits children including CSAM and child predatory behaviors;
- f. TikTok identifies and proactively removes content that violates those policies; and
- g. TikTok addresses filter bubbles and algorithm recommendations that lead to extreme harmful content.

COUNT THREE
Deceptive Acts or Practices
Violation of Utah Consumer Sales Practices Act, Utah Code § 13-11-4.

166. The Division re-alleges and incorporates all other paragraphs of this Complaint, as if fully set forth herein.

167. The goods, services, and software products TikTok provides are disposed to users for personal, family, and household purposes, and therefore are consumer transactions.

168. TikTok regularly and in the ordinary course of business provides these goods, services, and software products to and for consumers, and therefore is a supplier under the UCSPA.

169. The UCSPA prohibits deceptive acts and practices by a supplier in connection with a consumer transaction, whether before, during, or after the transaction takes place.

170. By engaging in the acts and practices alleged in this Complaint, TikTok made or caused to be made to Utah consumers, directly or indirectly, explicitly or by implication, misrepresentations of the geographical origin or location of its business in violation of the UCSPA, Utah Code § 13-11-4(2)(w), by misrepresenting that TikTok is a company located, controlled, and/or headquartered in the United States when it continues to be controlled by its China-based parent company, ByteDance.

171. TikTok knowingly made the above misrepresentations and engaged in deceptive practices in violation of the UCSPA.

PRAYER FOR RELIEF

WHEREFORE, the Division respectfully requests this Court enter a judgment in its favor and grant relief against Defendant as follows:

- a. Preliminarily or permanently enjoin Defendant, in accordance with Utah Code § 13-11-17(1), from violating the UCSPA;
- b. Order Defendant to pay restitution and damages well in excess of \$300,000 in accordance with Utah Code § 13-11-17(1)(c);
- c. Order the payment of civil penalties well in excess of \$300,000, as permitted by statute in accordance with Utah Code § 13-11-17(1) for Defendant's violations of the UCSPA;
- d. Award the Division the costs of this action, its investigation, and reasonable attorney's fees in accordance with Utah Code § 13-11-17.5; and
- e. Grant such further relief as the Court deems just and proper.

JURY DEMAND

The Division demands a trial by jury by the maximum number of jurors permitted by law for all claims and issues triable by jury.

Respectfully Submitted,

Dated: October 10, 2023

By: 

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**Pro Hac Vice applications forthcoming*